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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Justo Escalante ,

Petitioner,

v.

J. Davis, et al.,

Respondent.

C07-2702 JF

DECLARATION OF COUNSEL

Judge: The Honorable Jeremy Fogel

DECLARATION OF COUNSEL

I, Brian C. Kinney, declare:

1. I am an attorney licensed to practice before the courts of the State of California. I am employed by the California Office of the Attorney General as a Deputy Attorney General, in the Correctional Writs and Appeals section.

2. I am the attorney assigned to respond to the petition for writ of habeas corpus filed by inmate Justo Escalante.

3. On August 27, 2007, this Court issued an order to show cause requiring Respondent to file a responsive pleading by October 27, 2007. This matter was presented to me on September 9, 2007.

Decl. of Counsel

Escalante v. Davis
C07-2702 JF

4. I am requesting an extension of time because I have had ten other matters due in other courts during this time and I have also taken some planned vacation time.

5. I have not had the time to review all of the documents filed by Mr. Escalante or all of his records from the California Department of Corrections and Rehabilitation. Therefore, I respectfully request an additional thirty days, up to and including November 26, 2007 to file a responsive pleading in this matter.

6. Mr. Escalante is representing himself, and, because he is currently incarcerated, he is not easily reachable for notification that I am requesting an extension of time.

7. This request is not made for any purpose of harassment, undue delay, or for any improper reason.

8. Without an extension of time, Respondent would be substantially harmed or prejudiced because Respondent would not have an opportunity to prepare a thorough responsive pleading.

I declare under penalty of perjury that the above is true and correct, and that this declaration was executed on October 26, 2007, in San Francisco, California.

/S/ Brian C. Kinney
Brian C. Kinney
Deputy Attorney General

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